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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,502	01/07/2002	Stephan Binde	1454.1211	3526
21171	7590	12/14/2005	EXAMINER	
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			JUNG, MIN	
			ART UNIT	PAPER NUMBER
			2663	

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/036,502	<b>Applicant(s)</b> BINDE, STEPHAN	
	<b>Examiner</b> Min Jung	<b>Art Unit</b> 2663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on 07 January 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: The specification fails to provide a full description of what the drawing figures are showing.

Appropriate correction is required.

### ***Drawings***

2. The drawings are objected to because the foreign language labels used in the drawing are not understood, and also because some of the functional blocks, such as transforme, AFE, Quartet ASIC uP, DOLCE, etc. do not have numerical labels and are not described in the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either

"Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 5, it seems that "execution of" should be changed to "executing" for clarity of the meaning.

In claim 3, "the switching end" lacks antecedent basis.

In claim 4, "the subscriber end" lacks antecedent basis.

In claim 9, line 6, it seems that "execution of" should be changed to "executing" for clarity of the meaning.

In claim 11, "the subscriber end" and "the switching end" lack antecedent basis.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over McBride et al., US Pat. 6,963,907 (McBride) in view of Sanderson, US Pat. 6,292,468.

McBride discloses a testing scheme for a device connected to a server via Internet.

Regarding the present invention, McBride teaches transmitting a test program from a first subscriber at one end (the server 109) to a second subscriber (103, 105 or 107) to the other end, executing a test by this second subscriber (103, 105, 107) by processing this test program, and sending the test results already obtained back to the first subscriber. See col. 4, line 66 – col. 6, line 17. McBride fails to teach that the test is for the line qualification and/or monitoring of an xDSL link. Line qualification test of an xDSL link is well known in the art as shown by Sanderson. Sanderson teaches a method for qualifying a local loop for DSL service utilizing a test device connected to the customer end to measure test signals originating from the provider end. See Fig. 1, and col.4, line 46 – col. 5, line 22. As is shown by McBride, transmitting/downloading a test program from one end to the other end is well known in the art. Further, as is shown by Sanderson, line qualification test of a DSL line is well known in the art. Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to implement McBride's teaching of testing scheme by applying it in a DSL line qualification test environment of Sanderson to test a DSL link by a test program received from the other end of the communication link.

Further regarding claim 2, it is apparent from the teaching of McBride that the test is triggered after the test program has been transmitted by the server, because that's what the subscribers asked for.

Further regarding claims 3 and 4, Sanderson shows the switching end (local switch 36) and the subscriber end (test device 12).

Further, regarding claim 5, the combined teaching of McBride and Sanderson fails to teach other program module the test program is connected to. However, in a network device employing a software program, it is common to employ more than one program for executing multiplicity of different tasks. Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to provide other programs in addition to the test program explicitly taught in the combined teachings of McBride and Sanderson.

Further, regarding claim 6, it is inherent in Sanderson that the line qualification test is both for diagnostic and for real-time interpretation of the xDSL link because Sanderson teaches the general testing of loop qualification.

Further, regarding claim 7, the combined teaching of McBride and Sanderson fails to specifically show that the testing can be carried out at the end of the first subscriber. However, it would have been obvious for one of ordinary skill in the art at the time of the invention to implement the testing scheme to carry out the testing at the first subscriber location because the first subscriber location is where the test program originates, and therefore, is readily available at the first location.

Regarding claim 8, Sanderson teaches that the xDSL link can be an ADSL, a UDSL, or an SDSL link. See col. 1, lines 16-20.

7. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanderson in view of McBride.

Sanderson discloses a method for qualifying a loop for DSL service.

Regarding the present invention, Sanderson teaches activating a test program of a second subscriber at one end of the xDSL link from a first subscriber by a command which causes the second subscriber to generate signals which are suitable for testing the line (step 84 of Fig. 3), executing the line qualification and/or monitoring by the second subscriber by processing the test program of the second subscriber (step 86 of Fig. 3), and generating output based on measurement. See col. 5, lines 23-35.

Sanderson fails to specifically teach that the test results are sent back to the first subscriber. McBride teaches sending the result back to the other end as shown by the step 239 of Fig. 2. It would have been obvious for one of ordinary skill in the art at the time of the invention to implement the loop qualification test of Sanderson by employing the sending step taught by McBride to communicate the result of the test to the other end.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Chang et al. patent, and the Faulkner et al. patent are cited for further references.

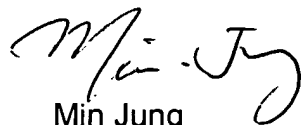
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Min Jung whose telephone number is 571-272-3127.

The examiner can normally be reached on Monday through Friday 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJ  
December 12, 2005

  
Min Jung  
Primary Examiner